IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 5067 OF 2005
ALONGWITH
CRIMINAL APPLICATION NO. 5068 OF 2005
ALONGWITH
CRIMINAL APPLICATION NO. 5070 OF 2005
ALONGWITH
CRIMINAL APPLICATION NO. 5072 OF 2005
ALONGWITH
CRIMINAL APPLICATION NO. 5112 OF 2005
ALONGWITH
CRIMINAL APPLICATION NO. 5113 OF 2005

Shri. Praful Kantilal Rokadia ...Applicant

Versus

The State of Maharashtra & Anr ...Respondents

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Mr. A.H.H. Ponda, Advocate for Applicant.

Mr. J.P. Shah i/b M/s. A.S. Khan & Associates, Advocate for Respondent No.2.

Mr. Y.S. Shinde, APP. for State in Appln.5067/05
Mr. Rajesh More, APP for State in Appln.5068/05.
Ms. S.V. Gajare, APP for State in Appln.5070/05.
Mr. R.S.Khadapkar, APP for State in APPln.5072/05
Mr. S.R.Shinde, APP for State in Appln.5112/05.
Mr. D.P. Adsule, APP for State in Appln.5113/05.

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CORAM: SMT. V.K. TAHILRAMANI, J.

DATED: 23RD AUGUST, 2005

P. C.:-

1. Heard the learned advocate for the applicant i.e. the original accused, the learned advocate for the respondent No.2 i.e. original complainant and the learned A.P.P. for the State.

2. The applicant has prayed for quashing of process issued against him in Criminal Case Nos. 3443/S/2002, 2145/S/2002, 2360/S/2002, 2735/S/2002, 3439/S/2002 and 2819/S/2002 which are pending in the Court of learned Special Magistrate, Small Causes Court, Court No.25 at Mumbai. In the said cases, process has been issued against the applicant under Section 138 of Negotiable Instruments Act.

3. For the reasons recorded in my order dated 13th June, 2005 passed in Criminal Writ Petition No.213 of 2005 and order dated 21st June, 2005 passed in Criminal Application No. 550 of 2005, the applicant has an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my opinion, it would be appropriate that the applicant prefers revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the applicant to prefer revision before the concerned Sessions Court. The learned advocate for the applicant states that the necessary revision would be preferred within a period of four weeks from today. In view of this statement, the trial Court shall not proceed with the trial for a period of four weeks from today. The learned advocate for the respondent No.2 i.e. original

complainant fairly states that no objection would be raised in respect of delay in filing revision before the learned Sessions Judge.

5. On the necessary revision being preferred by the applicant before the concerned Sessions Court, the concerned Sessions Court shall dispose of the same on merits after hearing necessary parties.

6. It is also prayed that, in the said cases the learned Magistrate has issued non bailable warrant against the applicant and the said N.B.W. be quashed. I am not inclined to quash the N.B.W. as in my view, it would be appropriate that the applicant prefer an application before the Magistrate for setting aside the said N.B.W. In order to enable the applicant to take necessary steps for setting aside the N.B.W. before the Magistrate, the said N.B.W. are stayed for a period of five weeks from today.

7. Applications are disposed of in the above terms.

8. Office to issue an authenticated copy of this order to the parties.

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